

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FLUOR CORPORATION,

Plaintiff/Counterclaim Defendant

v.

ZURICH AMERICAN INSURANCE
COMPANY,

Defendant/Counterclaim Plaintiff.

No. 4:16CV00429 ERW

ORDER

This matter is before the Court on Fluor’s Motion to Strike [638] Zurich’s unauthorized motion *in limine* Reply Briefs. Fluor argues Zurich’s Reply Briefs should be stricken as the parties jointly stipulated to a schedule that did not provide for replies in support of motions *in limine*. In the alternative, should the Court consider Zurich’s Reply briefs, Fluor untimely asks for leave to likewise file replies in support of its own motions *in limine*. Zurich responds its Replies were filed in accordance with Local Rule 4.01(C) which permits a moving party to file a reply memorandum within ten (10) days after being served with a memorandum in opposition. Zurich further argues motions to strike are not properly directed to reply briefs and therefore Fluor’s motion is procedurally improper.

In its Fourth Amended Case Management Order, the Court stated the parties were to “[f]ile all motions *in limine* to exclude evidence . . . at least fourteen (14) days before trial.” ECF No. 201. While the Court’s Order did not address the filing of Reply briefs to the parties’ motions *in limine*, it is clear given the short time frame of the filing deadline before the commencement of trial, their filing was not anticipated. On April 19, 2021, the Court granted

the parties' "Joint Motion to Set a Briefing Schedule for Motions *in Limine*," which amended the Fourth Case Management Order as follows:

- a. The Parties shall file all motions *in limine* on or before May 28, 2021. The Parties shall deliver to the Court courtesy copies of such opening motions on June 1, 2021.
- b. The Parties shall file any oppositions to motions *in limine* on or before June 14, 2021. The Parties shall deliver to the Court courtesy copies of such opposition briefs on June 15, 2021.
- c. This order shall not affect any other pretrial deadlines previously ordered.

ECF No. 512. The Order further stated the parties' motions *in limine* would be heard by the Court at the final pretrial conference.

The Local Rules, including Rule 4.01, clearly contemplate the Court's authority to manage its own docket and direct its own briefing schedule for motions and memoranda. Unless otherwise directed by the Court, Local Rule 4.01 governs briefing deadlines for motions. Here, the Court directed otherwise based upon the parties' stipulation. Given the number and complexity of the issues in this case and the need for an appropriate amount of time for the Court to carefully consider the parties' motions *in limine* before trial, the parties stipulated to a detailed briefing schedule for the filing of motions *in limine* which the Court approved. The stipulated schedule expressly provided deadlines for the filing of the motions, the responses in opposition, but not replies in support of motions *in limine*. However, in lieu of permitting replies, the schedule provided the parties the additional opportunity to be heard at the pre-trial conference regarding the motions *in limine*.

As the stipulated schedule adopted by the Court does not authorize the filing of Replies in support of the parties' motions *in limine*, the Court will **not** consider Zurich's Reply briefs in support of Zurich's motions *in limine* (ECF Nos. 626, 627, 629, 631, 633, 635, and 636). The Court further notes that although the Court declines to consider the Reply briefing filed by Zurich at this time, as noted above, the parties have the opportunity to present argument to the

Court at the pre-trial conference on July 19, 2021. Given the Court's directive already provides the relief requested by Fluor, it need not further address Fluor's motion to strike and will deny it as moot.

Accordingly,

IT IS HEREBY ORDERED that Fluor's Motion to Strike [ECF No. 638] is **DENIED** as moot.

So Ordered this 28th Day of June, 2021.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE